

(e) Any restricted article not designated in paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral permit for importation issued by an inspector at the port of entry.

(f) An oral permit for importation of an article shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such article is eligible to be imported under an oral permit, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such article.<sup>5</sup>

(Approved by the Office of Management and Budget under control number 0579-0049)

[45 FR 31585, May 13, 1980, as amended at 48 FR 57466, Dec. 30, 1983; 57 FR 43148, Sept. 18, 1992; 59 FR 67610, Dec. 30, 1994; 60 FR 8924, Feb. 16, 1995; 66 FR 21055, Apr. 27, 2001; 69 FR 61586, Oct. 20, 2004; 71 FR 19101, Apr. 13, 2006; 72 FR 30467, June 1, 2007; 72 FR 43518, Aug. 6, 2007]

**§ 319.37-4 Inspection, treatment, and phytosanitary certificates of inspection.**

(a) *Phytosanitary certificates of inspection.* Any restricted article offered for importation into the United States must be accompanied by a phytosanitary certificate of inspection. The phytosanitary certificate must identify the genus of the article it accompanies. When the regulations in this subpart place restrictions on individual species or cultivars within a genus, the phytosanitary certificate must also identify the species or cultivar of the article it accompanies. Otherwise, identification of the species is strongly preferred, but not required. Intergeneric and interspecific hybrids must be designated by placing the multiplication sign “x” between the names of the parent taxa. If the hybrid is named, the multiplication sign may instead be placed before the name of an intergeneric hybrid or before the epithet in the name of an interspecific hybrid. Phytosanitary certificates are not required for the following restricted articles:

(1) Greenhouse-grown plants from Canada imported in accordance with

paragraph (c) of this section. These plants must be accompanied by a certificate of inspection in the form of a label in accordance with paragraph (c)(1)(iv) of this section attached to each carton of the articles and to an airway bill, bill of lading, or delivery ticket accompanying the articles.

(2) Small lots of seed imported in accordance with paragraph (d) of this section.

(3) Seeds from Canada imported in accordance with paragraph (e) of this section. Each carton of seed must be labeled as required by paragraph (e)(2)(ii) of this section. Each shipment of seed must be accompanied by the documents in paragraphs (e)(2)(iii)(A) and (e)(2)(iii)(B) of this section, as necessary.

(4) Bulbs from the Netherlands accompanied by a special certificate that lists a serial number, the scientific name of the bulb, the country of its origin, and a date on which the special certificate expires. The serial number must refer to a phytosanitary certificate issued, held, and retrievable upon request by the national plant protection organization of the Netherlands. The expiration date must be 6 weeks after the issuance of the phytosanitary certificate held by the national plant protection organization of the Netherlands. Shipments of bulbs from the Netherlands accompanied by this certificate may be imported into the United States without preclearance by APHIS.

(b) *Inspection and treatment.* Any restricted article may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the article was grown, and must undergo any treatment contained in part 305 of this chapter that is ordered by the inspector. Any restricted article found upon inspection to contain or be contaminated with plant pests, that cannot be eliminated by treatment, shall be denied entry at the first United States port of arrival.

(c) *Greenhouse-grown plants from Canada.* With the exception of *Fraxinus* spp. (ash) plants, a greenhouse-grown restricted plant may be imported from

Canada if the Plant Health and Production Division of the Canadian Food Inspection Agency (CFIA) signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation, and provided that the following conditions are met:

(1) The Plant Health and Production Division of CFIA shall:

(i) Eliminate individual inspections and phytosanitary certification of each shipment of articles exported in accordance with this section;

(ii) Enter into written agreements with, and assign a unique identification number to, each greenhouse grower participating in the greenhouse program;

(iii) Inspect greenhouses and the plants being grown in them using inspection methods and schedules approved by Plant Protection and Quarantine to ensure that the criteria of this subsection are met;

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency." The Plant Health and Production Division, CFIA, shall also ensure that the label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

(v) Ensure that only plants that are not excluded shipment by the criteria of this subsection are shipped.

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Health and Production Division of CFIA in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants; keep the records for at least 1 year after the plants are shipped to the United States; and make the records available for review and copying upon request by either the Plant Health and Production Division of CFIA or an au-

thorized representative of the Secretary of Agriculture;

(ii) Apply to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States a label issued by CFIA that includes the identification number assigned to the grower by the Plant Health and Production Division, CFIA, and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency."; and

(iii) Use pest control practices approved by Plant Protection and Quarantine and the Plant Health and Production Division of CFIA to exclude pests from the greenhouses.

(d) *Small lots of seed.* Lots of seed may be imported without a phytosanitary certificate required by paragraph (a) of this section under the following conditions:

(1) The importation of the seed is authorized by a written permit issued in accordance with § 319.37-3.

(2) The seed is not of any prohibited genera listed in § 319.37-2; is not listed as not authorized pending pest risk analysis, as provided in § 319.37-2a; is not of any noxious weed species listed in part 360 of this chapter; does not require an additional declaration on a phytosanitary certificate in accordance with § 319.37-5; does not require treatment in accordance with § 319.37-6; is not restricted under the regulations in parts 330 and 340 of this chapter; and meets the requirements of part 361 of this chapter.

(3) The seed meets the following packaging and shipping requirements:

(i) Each seed packet is clearly labeled with the name of the collector/shipper, the country of origin, and the scientific name at least to the genus, and preferably to the species, level;

(ii) There are a maximum of 50 seeds of 1 taxon (taxonomic category such as genus, species, cultivar, etc.) per packet; or a maximum weight not to exceed 10 grams of seed of 1 taxon per packet;

(iii) There are a maximum of 50 seed packets per shipment;

(iv) The seeds are free from pesticides;

(v) The seeds are securely packaged in packets or envelopes and sealed to prevent spillage;

(vi) The shipment is free from soil, plant material other than seed, other foreign matter or debris, seeds in the fruit or seed pod, and living organisms such as parasitic plants, pathogens, insects, snails, mites; and

(vii) At the time of importation, the shipment is sent to either the Plant Germplasm Quarantine Center in Beltsville, MD, or a port of entry listed in § 319.37-14(b) and designated by an asterisk.

(e) *Certain seeds from Canada.* Seeds imported from Canada may be imported without a phytosanitary certificate if the following conditions are met:

(1) The Canadian Food Inspection Agency shall:

(i) Establish and administer a seed export program under which Canadian exporters of seed may operate;

(ii) Assign a unique identification number to each exporting establishment enrolled in and approved by the seed inspection program;

(iii) Provide APHIS with a current list of the establishments participating in its seed export program and their names, locations, telephone numbers, and establishment identification numbers at the start of the shipping season, and provide regular updates to that list throughout the shipping season;

(iv) Enter into an agreement with APHIS that specifies the documents that must accompany shipments of seeds under the seed export program:

(A) Agricultural and vegetable seeds, as listed in the Federal Seed Act regulations in part 361 of this chapter, must be accompanied by a document certifying that the relevant provisions of the Federal Seed Act have been followed;

(B) Other seeds must be accompanied by a document certifying that the seeds have been inspected.

(2) Each seed exporter participating in the seed export program shall enter into an agreement with the Canadian Food Inspection Agency in which the exporter agrees to:

(i) Practice any and all safeguards the Canadian Food Inspection Agency may prescribe in order to ensure that

seed exported to the United States is free of plant pests and that seed that does not meet the requirements for exportation to the United States is separated from seed that does;

(ii) Include an export certification document with each shipment indicating the common name of the seed, the country of origin of the seed, the establishment identification number assigned to the exporting establishment under the Canadian Food Inspection Agency's seed export program, and the lot number in addition to all other information required to be present by § 361.3 of this chapter.

(iii) Include other shipping documents as required with each shipment:

(A) Shipments of agricultural and vegetable seeds, as listed in the Federal Seed Act, must be accompanied by a document certifying that the relevant provisions of the Federal Seed Act regulations in part 361 of this chapter have been followed, as agreed upon by the Canadian Food Inspection Agency and APHIS;

(B) Shipments of other seeds must be accompanied by a document certifying that the seeds have been inspected, as agreed upon by the Canadian Food Inspection Agency and APHIS.

(Approved by the Office of Management and Budget under control numbers 0579-0285 and 0579-0279)

[57 FR 43148, Sept. 18, 1992, as amended at 67 FR 8465, Feb. 25, 2002; 68 FR 50045, Aug. 20, 2003; 70 FR 33324, June 7, 2005; 71 FR 19101, Apr. 13, 2006; 72 FR 30467, June 1, 2007; 72 FR 43518, Aug. 6, 2007; 76 FR 31209, May 27, 2011]

#### **§ 319.37-5 Special foreign inspection and certification requirements.**

(a) Any restricted article (except seeds; unrooted cuttings; articles collected from the wild; and articles solely for food, analytical, or manufacturing purposes) from a country listed below, shall be accompanied by a phytosanitary certificate of inspection which shall contain an accurate additional declaration that such article was grown on land which has been sampled and microscopically inspected by the plant protection service of the country in which grown within 12 months preceding issuance of the certificate and found free from potato cyst nematodes, *Globodera rostochiensis*